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Security Council

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Letter dated 21 January 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Monaco, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

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Annex

[Original: French]

Note verbale dated 18 January 2002 from the Permanent Mission of the Principality of Monaco to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of the Principality of Monaco to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) of 23 September 2001 concerning counter-terrorism, and has the honour to transmit herewith the report of the Principality of Monaco submitted pursuant to paragraph 6 of the above-mentioned resolution, including an annex (see enclosure).

Enclosure

Report submitted by the Principality of Monaco to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001) of 28 September 2001

The Security Council,

...

Acting under Chapter VII of the Charter of the United Nations,

...

6. *Decides* to establish, in accordance with rule 28 of its provisional rules of procedure, a Committee of the Security Council, consisting of all the members of the Council, to monitor implementation of this resolution, with the assistance of appropriate expertise, and *calls upon* all States to report to the Committee, no later than 90 days from the date of adoption of this resolution and thereafter according to a timetable to be proposed by the Committee, on the steps they have taken to implement this resolution.

N.B.: This report has been prepared in accordance with the guidance for submission of reports contained in note No. SCA/20/01(6) of the Counter-Terrorism Committee.

I. Measures implemented pursuant to paragraph 1 of Security Council resolution 1373 (2001)

Subparagraph 1 (a)

The Security Council,

...

1. *Decides* that all States shall:

(a) Prevent and suppress the financing of terrorist acts;

The Principality of Monaco is currently finalizing the drafting of several legislative and regulatory texts undertaken in implementation of the International Convention for the Suppression of the Financing of Terrorism and the special recommendations of several international bodies (United Nations Security Council, Financial Action Task Force on Money Laundering (FATF)) in the field of counter-terrorism.

The first text, which has been prepared in implementation of articles 4 and 5 of the International Convention for the Suppression of the Financing of Terrorism, will define the offences and corresponding criminal penalties envisaged in article 2 of that Convention. The aim of the text will be to authorize criminal proceedings against all types of terrorist acts and against their sponsors, as part of efforts to globally outlaw the phenomenon.

The second text, which has been prepared in implementation of Security Council resolutions pursuant to Chapter VII of the Charter of the United Nations and the International Convention for the Suppression of the Financing of Terrorism, will institute modalities for freezing all types of funds in the context of combating terrorism.

The third series of measures is aimed at broadening the mandate of the Financial Network Information Service (SICCFIN) to cover the suppression of terrorist financing; this necessitates the following legislative and regulatory changes:

- A bill amending Act No. 1,162 of 7 July 1993 on the participation of financial institutions in combating money-laundering will be introduced in order to establish an obligation to report suspicious transactions that may be linked to terrorism. The inclusion of offences linked to terrorism and to the financing of terrorism in the list of money-laundering predicate offences is also envisaged. This amendment will take account of the special recommendations of FATF (meeting held in Washington on 29 and 30 October 2001), in particular concerning the designation of offences linked to terrorism as money-laundering predicate offences.

- Sovereign Ordinance No. 11,246 of 12 April 1994 establishing SICCFIN will also be amended by adding funds linked to terrorism or intended for the financing of terrorism to the funds covered by Act No. 1,162 of 7 July 1993. This addition would bring Monegasque law into line with the resolutions adopted at the extraordinary meeting of the Egmont Group of financial intelligence units (FIU), held on 31 October 2001 in Washington, which committed each FIU:

- To conduct a review of national legislation to ensure that there was no obstacle to the exchange of information, in particular concerning the financing of terrorist activities;
- To do their utmost to ensure that the financing of terrorism was designated a money-laundering predicate offence and that the obligation to report suspicious transactions was broadened to include the financing of terrorism.

Provisions relating to these legislative and regulatory measures are described below under the paragraphs of Security Council resolution 1373 (2001) of 28 September 2001 dealing more specifically with these questions.

Subparagraph 1 (b)

The Security Council,

...

1. *Decides* that all States shall:

...

(b) Criminalize the wilful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts;

The following provisions of the Penal Code allow the judicial authorities to prosecute and impose prison sentences on persons providing or collecting funds intended for use in perpetrating acts of terrorism:

– Article 323 prohibits, inter alia, the extortion of funds:

> Whosoever, by means of force, violence or coercion, has extorted the remittance of funds or assets, or the signature or remittance of a document, deed, title or paper of any kind containing or creating an obligation, requirement or release, shall be sentenced to 10 to 20 years' imprisonment.
>
> Whosoever, by means of a written or verbal threat, defamatory allegations or accusations has extorted or attempted to extort either the remittance of funds or assets or the signature or remittance of one of the above-mentioned documents shall be sentenced to one to five years' imprisonment and fined in accordance with article 26 (4). (18,000 to 90,000 euros)

– Article 330, for its part, prohibits fraud which could indirectly lead to the collection of funds intended to be used to perpetrate acts of terrorism, and envisages the same penalties as for the extortion of funds by means of threats.

Above all, the acts designated above constitute acts of complicity within the meaning of both article 42 of the Monegasque Penal Code and articles 4 and 5 of Sovereign Ordinance No. 15,088 of 30 October 2001 on the implementation of the International Convention for the Suppression of Terrorist Bombings of 15 December 1997.

Subparagraph 1 (c)

The Security Council,

...

1. *Decides* that all States shall:

...

(c) **Freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities;**

Pursuant to the Convention on foreign exchange control between France and Monaco, the various French decrees governing financial relations with certain types of persons or entities are directly applicable in the Principality. Although these decrees, adopted in implementation of the Act on foreign relations, do not constitute freezing procedures as such, they do stipulate the requirement of authorization from the French Treasury for all transfers of designated assets from Monegasque territory. However, European Community regulations are not applicable in the Principality, since they do not directly concern exchange controls, but rather procedures for freezing assets held in banks and financial institutions of member States of the European Union.

Moreover, the Principality of Monaco, as a State Member of the United Nations, is taking the necessary steps (see next paragraph) to implement the Security Council resolutions providing for measures to freeze financial assets, including the lists drawn up by the Security Council sanctions committees concerning various States (Afghanistan, Iraq, Libyan Arab Jamahiriya, Rwanda, Sierra Leone, Somalia) or organizations (the União Nacional para a Independência Total de Angola (UNITA) (Angola)). With regard to Afghanistan, Security Council resolutions 1267 (1999) of 15 October 1999 and 1333 (2000) of 19 December 2000 have led the Ad Hoc Committee to establish a comprehensive list of persons and entities affected by the measures for the freezing of financial assets, an updated version of which was issued on 26 November 2001.

Monaco takes account of the lists of persons or entities emanating from French decrees, European Community regulations and United Nations resolutions. At the operational level, the Principality's banks and financial institutions are alerted to such lists and questioned (the Monegasque Bank Association also deals with the relevant requisition orders).

In dealing with a report of a suspicious transaction under Act No. 1,162 of 7 July 1993, SICCFIN, pursuant to article 4 of that Act, may officially block the suspicious funds for a period of twelve hours; such decision may be further extended by a judicial sequestration order.

In practice, the few reports made by the Principality's financial institutions concerning the various lists received appear to relate only to namesakes, whose names have been communicated to the authorities of the United States of America.

Furthermore, the Department of Finance and the Economy has asked the management companies of foreign corporations whether they have had business contacts with, or have been approached by, any person or entity included in the lists. To date, the Department has received no affirmative response. Finally, the Department has confirmed that none of the persons or entities included in the lists owned property in the Principality. It should be stressed that if the presence of such persons or their property and assets were ever detected in Monaco, immediate criminal investigations would ensue.

It should be noted that SICCFIN has issued a special recommendation for vigilance in relation to terrorist financing through the Monegasque Bank Association. An awareness-raising initiative aimed at officers of the SICCFIN correspondent banking institutions has also been conducted. In addition, within the framework of the measures implemented in connection with the introduction of the euro, SICCFIN has issued recommendations establishing for bank institutions a threshold (of 100,000 euros) above which transactions should be verified.

• *Provisions in preparation*

In addition to the existing provisions described above, the Principality of Monaco is currently finalizing the drafting of a sovereign ordinance, pursuant to Security Council resolutions relating to Chapter VII of the Charter of the United Nations and the International Convention for the Suppression of the Financing of Terrorism, which stipulates that banks and other financial institutions must freeze funds of all kinds belonging to any person or entity included in a list established by ministerial decree.

Banks and other financial institutions are required to provide information to the Monegasque authorities on the financial assets they hold.

Lastly, any failure to comply with an asset-freezing procedure will be prosecuted and the bank or financial institution responsible for such failure will be subject to a penalty pursuant to article 26 (4) of the Penal Code (18,000 to 90,000 euros).

This Sovereign Ordinance is based on regulation No. 2580/2001 of the Council of Europe of 27 December 2001.

• *Other relevant provisions*

Two provisions of the Penal Code currently allow for the confiscation of capital that is of illicit origin or is intended to be used to commit offences:

- Pursuant to article 12 of the Penal Code, the judge is empowered to order the confiscation of funds used — or intended to be used — to perpetrate an offence linked to terrorism, or of funds that represent the proceeds of such an offence.
- In addition, articles 218-3 and 219 of the Penal Code provide for the confiscation of property and capital of illicit origin.

Such property or capital must originate from one of the specified offences (including murder, procurement, kidnapping and abduction, extortion of funds and breaches of the legislation on weapons) when committed by a criminal organization.

Subparagraph 1 (d)

The Security Council,

...

1. *Decides* that all States shall:

...

(d) Prohibit their nationals or any persons and entities within their territories from making any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts, of entities owned or controlled, directly or indirectly, by such persons and of persons and entities acting on behalf of or at the direction of such persons;

The sovereign ordinance in preparation, which will establish modalities for freezing all types of funds in the context of combating terrorism, prohibits the direct or indirect placement of financial assets at the disposal of one or more persons or entities included in a list established by ministerial decree, including the use of assets to benefit such persons or entities. It also prohibits the provision or continued provision of financial services to physical or legal persons, entities or bodies designated by ministerial decree. Lastly, it prohibits the deliberate and intentional participation in related activities aimed at, or resulting in, the direct or indirect evasion of procedures for freezing assets of any kind.

Any failure to comply with these provisions will be prosecuted and punished with the penalties envisaged in article 26 (4) of the Penal Code (18,000 to 90,000 euros).

II. Measures implemented pursuant to paragraph 2 of Security Council resolution 1373 (2001)

Subparagraph 2 (a)

The Security Council,

...

2. *Decides also* that all States shall:

(a) Refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts, including by suppressing recruitment of members of terrorist groups and eliminating the supply of weapons to terrorists;

Certain provisions of the Penal Code allow the judicial authorities to prosecute and impose prison sentences on persons implicated in terrorist acts, especially those linked to the recruitment of members of terrorist groups (i) or the supply of weapons to terrorists (ii).

(i) "*Criminal association*": Articles 209 to 211 of the Penal Code state that "any association or agreement established with a view to planning or committing crimes against persons or property constitutes a crime against public order" and that persons participating in such associations or agreements shall be punished by 10 to 20 years' rigorous imprisonment. Any person who

assists the perpetrators of a crime against public order, as defined above, by providing them with equipment, means of communication, accommodation or a meeting place, shall be punished by five to 10 years' rigorous imprisonment.

(ii) In the Principality, *the question of weapons* is governed by the Convention on good-neighbourliness between France and the Principality of Monaco of 18 May 1963, given force of law by Sovereign Ordinance No. 3,039 of 19 August 1963 and Act No. 913 of 18 June 1971 on weapons and munitions. Article 16 of the Convention stipulates: "*The laws and regulations governing war equipment in France shall also apply in the Principality. The Government of the Principality undertakes to set up a system of laws and regulations for weapons and munitions that are not considered war equipment as similar as possible to those in force in France.*" French law, which, under the Convention, applies to weapons of war in the territory of Monaco, states that, in the absence of administrative authorization, the manufacture, trade, import, attempted import, acquisition, transfer, possession and transport of such weapons shall be punished by fines and imprisonment, without prejudice to the right of the French authorities to confiscate seized equipment, deactivate it at the offender's expense or auction it.

Weapons in other categories — defensive firearms, hunting weapons, edged weapons, shotguns, fairground or ornamental weapons, antique and collectors' weapons, and their ammunition — are governed by specific Monegasque law arising from Act No. 913 on weapons and munitions and its implementing legislation, in particular Sovereign Ordinance No. 6,947 of 16 October 1980. This regime, which is based on French law, is particularly restrictive; it provides that:

- Prior administrative authorization must be obtained for the manufacture and trade of defensive firearms or their ammunition and for intermediary or advertising activities relating to these items;
- Prior administrative authorization must be obtained for every operation to import defensive firearms, hunting weapons, edged weapons, shotguns or fairground or ornamental weapons; the expressly decreed principle is prohibition;
- Prior administrative authorization must be obtained by non-professionals for the acquisition, possession, carrying and transport of defensive firearms or edged weapons;
- Criminal penalties (fines and imprisonment) shall be applicable in cases of disregard of the rules set out above, without prejudice to measures to confiscate, auction or deactivate seized weapons and munitions, withdraw permits that have been issued or suspend administrative declarations. In particular, a penalty of one to five years' imprisonment and a fine of €9,000 to €18,000 is applicable to any person who engages in the manufacture or trade of weapons and munitions without obtaining a permit or declaring the activity, or who acts as an intermediary without being authorized to do so.

It should also be noted that pursuant to article 218, paragraph 3, of the Penal Code, trafficking in weapons and munitions constitutes a predicate offence in relation to money-laundering, in that goods and capital derived from such trafficking are classified as illicit and may be confiscated under article 219.

- *Provisions currently in preparation*: a preliminary bill on weapons and munitions, containing provisions which are very similar to those currently existing in France, and which comply with European Union directives on the subject, is about to be finalized.

Subparagraph 2 (b)

The Security Council,

...

2. *Decides also* that all States shall:

...

(b) Take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other States by exchange of information;

The Public Security Department of Monaco has the authority to conduct investigations of crimes and offences against State security, persons and property, and to search for the perpetrators.

In practical terms, following the terrorist attacks of 11 September 2001, police checks have been carried out to determine whether persons and/or entities linked to terrorist organizations were present in the Principality. The checks were based on lists distributed by the French and United States authorities and the International Criminal Police Organizations (Interpol). If these checks reveal that a person or entity matches an entry on one of the lists, the particulars of that person or entity are communicated straightaway to the international or State authorities concerned and legal proceedings are immediately instituted.

As a member State of Interpol, Monaco has an Interpol National Central Bureau which is under the authority of the criminal investigation division of the Public Security Department and which acts as a platform for the transmission of information of a criminal nature. The criminal investigation division has also set up an operational liaison unit which includes a seconded French officer who also attends meetings of the anti-Mafia coordination and investigation unit. The Principality plans to conclude an agreement with the European Police Office (Europol) concerning initially, efforts to combat counterfeiting of the euro and, subsequently, the areas mentioned below in relation to subparagraph 3 (a) of Security Council resolution 1373 (2001).

Lastly, Monaco participates in bilateral exchanges of information under the conventions on mutual legal assistance which it has signed with various States (including France, Italy, Germany, Belgium and Australia) and international commissions rogatory. During the judicial year 2000-2001 (from 1 October 2000 to 30 September 2001), the government procurator's office transmitted 114 commissions rogatory from abroad to the magistrates' offices for execution (about 10 per cent of them fall into the category of the laundering of capital of criminal origin). The examining magistrates dealing with these commissions rogatory delegate them to the criminal investigation division of the Public Security Department which has a team representing the judiciary and the area of economic and financial affairs consisting of six officials, including three criminal investigation officers. All of these commissions rogatory, particularly those which fall within the category of money-laundering, are executed promptly, within three months on average, a period significantly shorter than is the case elsewhere.

Subparagraph 2 (c)

The Security Council,

...

2. *Decides also* that all States shall:

...

(c) Deny safe haven to those who finance, plan, support or commit terrorist acts, or provide safe havens;

Notwithstanding the particular procedures which are applicable in Monaco to asylum-seekers wishing to obtain refugee status (see subparagraph 3 (f)), the Monegasque authorities may refuse to allow persons strongly suspected of involvement in organized crime, terrorism or money-laundering operations to settle in the territory of Monaco. Article 22 of Ordinance No. 3,153 on conditions governing the entry and stay of aliens in the Principality* allows the authorities to issue administrative orders to remove aliens from the territory of Monaco (expulsion or refoulement). No reason need be given for expulsion or refoulement orders.

Subparagraph 2 (d)

The Security Council,

...

2. *Decides also* that all States snall:

...

(d) Prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other States or their citizens;

Further to the reply regarding subparagraph 2 (c) of Security Council resolution 1373 (2001) (expulsion or refoulement procedures), it should be noted that Act No. 1,222 of 28 December 1999 relating to extradition provides that extradition may be possible in the case of acts which are punishable as crimes or offences in the Principality and in the requesting State by imprisonment of at least one year or a more severe penalty.

As all the penalties for terrorist acts provide for much higher thresholds, the Principality may, pursuant to this Act, extradite terrorists who are being prosecuted in other States, thereby preventing them from using the territory of Monaco to commit other terrorist acts.

* Article 22: "The Minister of State may through police action or by obtaining an expulsion order, enjoin any alien to leave the territory of Monaco immediately or prohibit him/her from entering".

Subparagraph 2 (e)

The Security Council,

...

2. *Decides also* that all States shall:

...

(e) Ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice and ensure that, in addition to any other measures against them, such terrorist acts are established as serious criminal offences in domestic laws and regulations and that the punishment duly reflects the seriousness of such terrorist acts;

Sovereign Ordinance No. 15,088 of 30 October 2001 on the implementation of the International Convention for the Suppression of Terrorist Bombings provides for extremely severe penalties, the most severe being rigorous imprisonment for life, for those who have committed terrorist acts within the meaning of the Convention. Complicity in, or an attempt to commit, a terrorist act, or even mere participation in such an act, are punished by the same penalties, whether such acts take place in Monaco or abroad, if they are committed by a Monegasque national or against Monegasque interests.

Furthermore, all acts covered by the term "terrorism" constitute crimes or offences under ordinary law and are punished under the Penal Code, regardless of the motive.

For example, assassination, murder, deliberate assault, arson and deliberate damage, and the planting of explosives on public thoroughfares are punished by criminal penalties — up to rigorous imprisonment for life in the most serious cases.

Certain laws also provide for punishment of acts that may be classified as terrorist acts. For example, articles L633-23 et seq. of the Code of the Sea stipulate criminal penalties for the hijacking or destruction of a ship and for piracy.

Similarly, Ordinance No. 14,123 of 30 August 1999 stipulates prison sentences for the use, manufacture, storage and transfer of anti-personnel mines.

To date, the Monegasque courts have not had to take cognizance of any acts linked to terrorism.

- *Provisions currently in preparation*: the Government is currently preparing an Ordinance to implement the International Convention for the Suppression of the Financing of Terrorism: the text will include a definition of terrorism that conforms to the Convention and will incorporate the criminal acts covered by it, taking into account those covered by the nine international instruments relating to terrorism to which it refers and to which Monaco is party, and will provide for severe penalties similar to the penalty laid down in the Sovereign Ordinance on the suppression of bombings.

Subparagraph 2 (f)

The Security Council,

...

2. *Decides also* that all States shall:

...

(f) Afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts, including assistance in obtaining evidence in their possession necessary for the proceedings;

Further to the reply given under subparagraph 2 (b) of Security Council resolution 1373 (2001), it should be noted that the Monegasque authorities have traditionally, and more particularly since the terrorist attacks of 11 September, cooperated with the authorities of other States in order to afford them the greatest possible assistance with regard to exchanging information that is useful for criminal investigations. Accordingly, they have on several occasions complied with requests for information from the United States authorities, for example by replying to a detailed questionnaire from the Department of the Treasury and increasing the number of meetings with delegations of diplomats and officials from the Department of State. The list of persons' names sent by the United States authorities for the purposes of verification has been the subject of detailed and thorough research.

In addition, the SICCFIN, in the context of its close cooperative links with the other financial intelligence units (FIUs) in the Egmont Group, has questioned Monegasque financial institutions. SICCFIN and the Financial Crimes Enforcement Network (FinCEN) also plan to conclude a bilateral cooperation agreement in the near future, based on those which SICCFIN has already signed, with France in 1994, Belgium and Spain in 2000, and Portugal, Luxembourg and the United Kingdom in 2001.

Investigations are still ongoing on the basis of the lists sent to SICCFIN.

As part of measures taken at the time of the changeover to the euro and, more particularly, following the Egmont Group regional workshop in September 2000 in Paris on money-laundering and the euro, a warning system was put in place: a special contact point was designated for relations between FIUs in the euro zone.

- *Provisions currently in preparation*: the current system, which allows SICCFIN to exchange information about money-laundering with foreign FIUs (article 31 of Act No. 1,162 of 7 July 1993), will soon be expanded so that it can be used to combat the financing of terrorism. However, in cases where it is established that terrorist assets are linked to the activities of criminal organizations, SICCFIN may already seek information from professionals who are subject to the obligations set out in the Act and communicate the information obtained to their counterpart departments.

Subparagraph 2 (g)

The Security Council,

...

2. *Decides also* that all States shall:

...

(g) Prevent the movement of terrorists or terrorist groups by effective border controls and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents;

• *Border controls*

In accordance with the Convention on good-neighbourliness between France and Monaco of 18 May 1963, border controls are exercised jointly by each national authority at the crossing points established on the air and maritime borders. However, by virtue of bilateral conventions and also because of the small size of the Monegasque territory and its geographical situation (the territory of the Principality is entirely urbanized and forms a conurbation with the three neighbouring French communes), the land borders with France are not systematically controlled (there are no fixed checkpoints on the cross-border communication routes). Nevertheless, the main access routes are closely monitored. Moreover, it should be noted that the Principality is now part of the Schengen area and that controls are effected in accordance with the provisions laid down in the Schengen Agreements.

With regard to air transport, it should be noted that the Principality, because of the small size of its territory, has just one heliport. Border controls are the responsibility of the Monegasque Public Security Department. Since the heliport is an entry point to the Schengen area, only the movement of persons from non-member States is subject to systematic control, which is carried out jointly by the Monegasque Public Security Department (physical checking of documents) and the French air and border police (PAF) (checking of the Schengen computerized file). The names of such persons are entered in the heliport's passenger identification and control list. PAF is notified in advance of each arrival of a flight from outside the Schengen area by the Monegasque Public Security Department, which is itself alerted by the air traffic controllers upon receipt of a flight plan (minimum notice of one hour). Flights originating in the Schengen area are sometimes subject to spot checks.

Officers of the Monegasque Public Security Department check all departing passengers by matching the travel ticket and the identity document produced by the traveller. All passengers pass through a metal detector gate before boarding.

With regard to maritime transport, all vessels calling at one of the two ports of the Principality are systematically checked by the Monegasque maritime police. Articles 4 and 5 of order No. 3,815 of 23 June 1967 provide for three port control procedures:

- The Maritime Affairs Department carries out an administrative verification of the vessel's papers in order to be able to allocate it a berth in the port and issue an invoice.

- The Monegasque Public Security Department verifies the number, status and identity of the passengers, whether they are from liners or from yachts. The

control applies both to tourists in transit and to crew members of ships staying in the port for a long period. *Vessels originating in the Schengen area* are checked against the list of crew and passengers provided by the captain. All persons are checked against the file of wanted persons and the archives of the Public Security Department. They are then entered in the identification and control register of passengers and crew calling at Monaco.

– With regard to *passengers of vessels originating in a country outside the Schengen area*, the controls are carried out jointly with the French air and border police, on the basis of passports which must bear the Schengen visa. If the visa is missing, notification is given of denial of permission to disembark.

– The customs service monitors the unloading and loading of goods, particularly bonded merchandise.

• *Conditions of the entry and stay of aliens*

Order No. 3,153 concerning the conditions of entry and stay of aliens in the Principality establishes very strict conditions for permanent and temporary stays in the Monegasque territory.

Any alien who wishes to enter the territory of the Principality, who stays there for more than three months or who settles there must be in possession of a valid passport, or of a travel or identity document taking the place of a passport, bearing the stamps, visas and permits allowing the person to enter, stay in or settle in France. French nationals must hold the identity card issued by the French authorities. Aliens not residing in French territory who wish to engage in paid employment in the Principality without establishing residence there must carry a work permit visaed and issued by the competent Monegasque services.

In order to stay in the Principality, any alien over the age of 16 who meets the conditions set forth above must apply for a residence permit from the Public Security Department within eight days of his arrival. In order to obtain this residence permit, he is required to provide full information on his civil status and, where applicable, that of his spouse and children residing with him, and on his type of accommodation. In this respect, he must produce either a document certifying his status as owner or tenant or the residence certificate described below.

Upon request by the competent authorities, aliens must be able to present the documents by virtue of which they are authorized to stay in the Principality.

An alien who has been denied a residency permit or whose permit has been withdrawn is required to leave the territory of the Principality within the time limit specified for him. Anyone who, despite having had a permit denied or withdrawn, is found in the Monegasque territory after the expiry of the time limit granted, and whose situation has not been settled at the administrative level, is punishable by six days to three months' imprisonment and a fine of 9,000 to 18,000 euros or by one of these two penalties.

Any alien who has altered or falsified a residence document or the receipt issued to him used to carry out an administrative act, or draw up a residence document or receipt other than his own receipt is punishable by six months to three years' imprisonment and a fine of 9,000 to 18,000 euros or to one of these two penalties. He will also be expelled from the Monegasque territory.

False declaration of civil status in order to conceal one's true identity or the use of false identity documents will give rise to the administrative penalties and sanctions envisaged above for the offending alien.

The Minister of State, through a police measure, or by issuing an expulsion order, may enjoin any alien to leave the Monegasque territory immediately or prohibit his entry into that territory. Any alien who has been turned back, expelled or banished from the French territory and is present in the Principality will be turned back or expelled from the Monegasque territory and turned over to the French authorities as soon as the Minister of State has been notified of the measure or judgement concerning him. Any non-Monegasque individual who, in application of French criminal law, is denied residence in or access to the neighbouring French department, notification of which has been given to the Minister of State, will not be admitted into the territory of the Principality. Any individual who evades the implementation of these measures or who, after leaving the Principality, enters without authorization, is punishable by six months to three years' imprisonment and a fine of 9,000 to 18,000 euros or to one of these two penalties. Upon the expiry of the penalty, he is escorted from the Monegasque territory. Anyone who has aided or abetted the entry, travel or stay of an alien who is the subject of one of the administrative measures taken above is punishable by six months to three years' imprisonment and a fine of 9,000 to 18,000 euros or by one of these two penalties.

In respect of residence, persons holding licenses for hotels, furnished rooms or boarding houses or rental permits must keep a register, which is verified and initialled by a police commissioner, into which the first and last names, profession, place and date of birth, nationality, number, date and place of issue of the residence permit, identity card, passport or travel document taking its place, dates of entry and departure of all persons staying in their establishments are immediately entered. This register must be presented upon request by officials or agents of authority. Moreover, persons holding licences for furnished rooms or boarding houses must submit a standard form to the Public Security Department every morning indicating, inter alia, the number of the room or apartment occupied by each guest. An owner or principal tenant who lets out all or part of his house, villa or apartment on a furnished basis is not required to submit the list in question only on the date of the guest's arrival.

Any alien who is not staying in a hotel, furnished room or boarding house and who cannot establish his status as owner or tenant of the accommodation he intends to occupy for a period of more than three months must also be in possession of a residence certificate issued by the Public Security Department, under the conditions laid down by ministerial decree.

Violations of the residence conditions described above are punishable by a fine of 2,250 to 9,000 euros, without prejudice to any measures of expulsion which may be taken.

Landlords and hotel-owners who have knowingly entered guests in their registers under false or assumed names are punishable by six days to one month's imprisonment and a fine of 750 to 2,250 euros or by one of these two penalties.

Anyone who knowingly harbours an alien in an irregular situation is subject to six days to three months' imprisonment and a fine of 9,000 to 18,000 euros or to one of these two penalties, without prejudice to any administrative penalties.

• *Control and issuance of travel documents, tracking of travellers and of baggage*

With regard to air transport: in normal operation, all baggage (hand baggage and baggage for the hold) is systematically checked by means of X-rays. In case of doubt, the baggage is opened and visually inspected. The use of colour-coded ticketing makes it possible for the companies to verify the exact number of pieces of baggage loaded on a flight, although it does not allow the matching of each piece of baggage with each passenger.

Currently, in the context of the Vigirenfort plan, agents of the Monegasque Public Security Department also match the identity of each passenger with each travel document issued by the airline (upon presentation of the ticket stub and an identity document) at the time of inspection/screening (control of all hand baggage by X-rays and control of all persons by metal detector gate).

With regard to maritime transport, no baggage controls are carried out on ships.

• *Measures taken to combat the counterfeiting of documents*

Since September 1999, the Monegasque authorities have been issuing new passports which conform with the security rules recommended at the international level to prevent counterfeiting and to standardize travel documents so that they can be read mechanically. The system of machine-readable passports requires that the main information — first and last names, nationality, gender, date and place of birth, dates of issuance and of expiry — should be coded electronically and printed at the bottom of the first page of the passport. Since under this system it is impossible to extend the document, the period of validity has been increased from three to five years, at the end of which a new passport must be drawn up.

Anyone who forges, falsifies or alters passports, certificates, booklets, cards, bulletins or receipts, laissez-passer or other documents issued by the public authorities in order to create an identity or status, secure a right or gain an authorization is punishable, under article 97 of the Penal Code, by one to five years' imprisonment and a fine of 9,000 to 18,000 euros. The offender may also be deprived of his civic rights for at least five years and no more than 10 years, starting on the date of expiry of his penalty. Attempted crimes are punishable in the same way as crimes actually perpetrated. The same penalties are applied to those who use falsified, forged or altered documents or who use such documents when the information invoked by the person concerned has become incomplete or inaccurate.

III. Measures implemented pursuant to paragraph 3 of Security Council resolution 1373 (2001)

Subparagraph 3 (a)

The Security Council,

...

3. *Calls upon* all States to:

(a) Find ways of intensifying and accelerating the exchange of operational information, especially regarding actions or movements of terrorist persons or networks; forged or falsified travel documents; traffic in arms, explosives or

sensitive materials; use of communications technologies by terrorist groups; and the threat posed by the possession of weapons of mass destruction by terrorist groups;

Further to the reply regarding paragraph 2, subparagraph (b) of Security Council resolution 1373 (2001), it should be noted that the Principality intends to conclude an agreement with Europol. This agreement would initially be limited to preventing counterfeiting of the euro, coinciding with the introduction of the new European currency, but could then be extended to other areas of cooperation included in the standard agreements which Europol signs with third States (Estonia, Iceland, Norway, Switzerland): illicit drug trafficking; trafficking in nuclear and radioactive substances; clandestine immigration networks; trade in human beings; traffic in stolen vehicles; crimes committed or likely to be committed within the context of terrorist activities.

In addition to cooperation relating to the expanded range of areas indicated above, intensified and operational cooperation is required within the context of Europol. Once the cooperation agreement has been signed, Monaco will assign a liaison officer to the Europol headquarters and will establish a national unit responsible for interfacing with the law enforcement services (it is envisaged that this will be the same structure which currently manages Interpol National Central Bureau, in order to establish, as in France, a joint Interpol-Europol base).

In practice, the operational police cooperation envisaged in the above-mentioned areas in the context of Europol will help intensify and accelerate the exchanges of information associated with criminal investigations. Indeed, in addition to the traditional functions (exchanges of data and information among member States), Monaco will benefit from the assistance provided by Europol to national units in communicating relevant information to them without delay (simplified and protected data transmission, including personal data, removal of legal or bureaucratic obstacles, simplification of investigation procedures) and informing them immediately of links found between criminal acts; investigations will be facilitated between Monaco and member States (formation of joint investigation teams, through Europol national units); lastly, Monaco will have access to computerized information banks containing data collected and analysed by Europol.

Subparagraph 3 (b)

The Security Council,

...

3. *Calls upon* all States to:

...

(b) Exchange information in accordance with international and domestic law and cooperate on administrative and judicial matters to prevent the commission of terrorist acts;

See the replies regarding paragraph 2, subparagraphs (b) and (f).

Subparagraph 3 (c)

The Security Council,

...

3. *Calls upon* all States to:

...

(c) Cooperate, particularly through bilateral and multilateral arrangements and agreements, to prevent and suppress terrorist attacks and take action against perpetrators of such acts;

See the replies regarding paragraph 2, subparagraphs (b) and (f).

Subparagraph 3 (d)

The Security Council,

...

3. *Calls upon* all States to:

...

(d) Become parties as soon as possible to the relevant international conventions and protocols relating to terrorism, including the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999;

The Principality of Monaco is a party to 9 of the 12 United Nations treaties for the suppression of international terrorism. Following the attacks of 11 September 2001, the Principality signed and ratified on 10 November 2001 the International Convention for the Suppression of the Financing of Terrorism, done at New York on 9 December 1999, and became a party on 6 October 2001 to the International Convention for the Suppression of Terrorist Bombings (adopted on 15 December 1997), and then on 15 November 2001 to the International Convention against the Taking of Hostages, done at New York on 14 December 1979.

Monaco was already a party to all the treaties of which the International Civil Aviation Organization (ICAO) is the depositary:

The Convention on Offences and Certain Other Acts Committed on Board Aircraft, done at Tokyo on 14 September 1963. This instrument entered into force in relation to Monaco on 31 August 1983;

The Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16 December 1970. This instrument entered into force in relation to Monaco on 3 July 1983;

The Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971. This instrument entered into force in relation to Monaco on 3 July 1983;

The Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, adopted on 24 February 1988. This instrument entered into force in relation to Monaco on 21 January 1994.

The Convention on the Marking of Plastic Explosives for the Purpose of Detection, adopted at Montreal on 1 March 1991. This instrument entered into force in relation to Monaco on 13 July 1998.

Monaco has also been a party since 8 September 1996 to the International Atomic Energy Agency (IAEA) Convention on the Physical Protection of Nuclear Material, done at Vienna on 3 March 1980.

The Principality is currently finalizing the procedure for accession which it has undertaken for the two instruments of which the International Maritime Organization (IMO) is the depositary (Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, and Protocol on the Suppression of Unlawful Acts Against the Safety of Platforms Located on the Continental Shelf, done at Rome on 10 March 1988).

Moreover, the Government of the Principality recently undertook a review of the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, done at New York on 14 December 1973, with a view to determining whether it should accede to this international instrument.

A summary table annexed to this report describes the situation of the Principality of Monaco on the date of submission of this report in relation to all the United Nations treaties for the suppression of international terrorism.

Lastly, it should be pointed out that Monaco is also the first State Member of the United Nations to have ratified, on 5 June 2001, the United Nations Convention against Transnational Organized Crime, and its two additional Protocols, including the Protocol against the Smuggling of Migrants by Land, Air and Sea, all three of which were adopted at New York on 15 November 2000. Monaco is currently studying the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, done at New York on 31 May 2001, with a view to its signature.

Subparagraph 3 (e)

The Security Council,

...

3. *Calls upon* all States to:

...

(e) Increase cooperation and fully implement the relevant international conventions and protocols relating to terrorism and Security Council resolutions 1269 (1999) and 1368 (2001);

Under article 68 of the Constitution of 17 December 1962,[1] any international treaty which does not affect the constitutional order is incorporated into Monegasque domestic law through a sovereign ordinance, which makes the treaty enforceable in Monaco under the domestic legal system. All the conventions and protocols relating to terrorism to which the Principality is a party have been made

[1] Article 68: "The Prince shall issue the necessary ordinances for the implementation of laws and the application of international treaties and agreements".

enforceable by means of sovereign ordinances, as indicated in the annexed table. The ordinance concerning the International Convention for the Suppression of the Financing of Terrorism will be published in the *Journal de Monaco* (official gazette) as soon as this instrument enters into force.

It has become clear that, in order to increase the effectiveness of the implementation of the conventions and protocols relating to terrorism to which the Principality is a party, a second set of measures is necessary. The treaties in question increasingly require that the State party should undertake to introduce certain legal, and particularly criminal, or technical measures not specified in the text, or should take measures in addition to those envisaged in the treaties. The Principality therefore issued on 30 October 2001 sovereign ordinance No. 15,088 concerning the implementation of the International Convention for the Suppression of Terrorist Bombings, which provides for, in particular, penalties for persons who have perpetrated, participated in or been linked in any way whatsoever to the terrorist acts defined in that Convention. Similarly, the Government of the Principality is currently finalizing two texts adopted in implementation of the International Convention for the Suppression of the Financing of Terrorism, which will provide, on the one hand, for prosecution and criminal penalties in relation to the offences envisaged in article 2 of this Convention (including those relating to the nine international instruments annexed thereto) and, on the other, the procedure for freezing funds of all kinds used or intended to be used to commit the offences envisaged in article 2 of this Convention (see *supra*, paragraph 1, subparagraphs (a), (b), (c) and (d), and paragraph 2, subparagraph (e) of the report).

In its capacity as State Member of the United Nations, the Principality of Monaco has undertaken to implement scrupulously the resolutions of the Security Council, particularly when they are adopted within the framework of Chapter VII of the Charter of the United Nations, which confers binding legal force on them. Although Security Council resolutions 1269 (1999) and 1368 (2001) do not make specific reference to Chapter VII, they call directly for the adoption of action in the face of acts of aggression constituting a threat to international peace and security. In line with its international commitments, the Principality believes that it has a duty to cooperate fully and to implement the provisions of those resolutions, as was noted by His Serene Highness Crown Prince Albert and H.E. Mr. Jacques Boisson, Permanent Representative of the Mission of Monaco to the United Nations, from the rostrum of the General Assembly.

Extract from the address by His Serene Highness Crown Prince Albert from the rostrum of the United Nations, Sunday, 11 November 2001, at the fifty-sixth session of the General Assembly

> "For us, following up on these initiatives with the necessary effectiveness means not only implementing the resolutions that reflect our common determination and our commitment to fight terrorism and formulating additional agreements and conventions, but also, first and foremost, bringing our expertise to the implementation of instruments that have already been concluded and to which we have acceded or intend to accede. Improving the Organization's action in the legal sphere is both indispensable and of top priority; we know this, as does the Government of the Principality. Therefore, yesterday I signed and deposited, on behalf of my father, the sovereign Prince, the instruments of ratification of the International Convention for the Suppression of the Financing of Terrorism. The

Principality of Monaco considers it essential that there be coordinated worldwide action against all forms of financing of terrorism, in order to deprive extremist movements of the resources that enable them to do such serious harm to the international community and to its deep-seated aspirations to peace and security."

Statement made by the Ambassador representing the Principality of Monaco in the United Nations, H.E. Mr. Jacques Boisson, to the General Assembly under the agenda item relating to the elimination of terrorism, on 3 October 2001

"In this spirit, the United Nations immediately and unequivocally condemned on 12 September those unjustifiable criminal acts, in the first resolution to be adopted at the fifty-sixth session of the General Assembly, which stresses that the perpetrators, organizers and sponsors of those acts will have to answer for them, while the Security Council took similar action by adopting resolution 1368 (2001).

The Principality of Monaco fully adheres to the terms of those resolutions and to the terms of all other Security Council and General Assembly resolutions condemning acts of terrorism, which represent a threat to international peace and security. We particularly recall Security Council resolution 1333 (2000) of 19 December 2000, which invoked Chapter VII of the Charter expressly in regard to the Taliban."

Subparagraph 3 (f)

The Security Council,

...

3. *Calls upon* all States to:

...

(f) Take appropriate measures in conformity with the relevant provisions of national and international law, including international standards of human rights, before granting refugee status, for the purpose of ensuring that the asylum-seeker has not planned, facilitated or participated in the commission of terrorist acts;

The Principality of Monaco does not grant refugee status directly to asylum-seekers. In implementation of an agreement reached between the French and Monegasque authorities in 1955, and endorsed in the Convention on good-neighbourliness between France and Monaco of 18 May 1963, Monaco recognizes a person's status as refugee or stateless person on condition that this status has been previously and officially granted to him by the French office for the protection of refugees and stateless persons (OFPRA); this recognition takes the form of the issue of a French travel document and a card from OFPRA. Consequently, refugees cannot enter, stay in or settle in the Principality unless their refugee status has been legally recognized by the French Government.

It is therefore the French competent authorities which carry out the necessary investigations, including those aimed at ensuring that asylum-seekers have not planned, facilitated or participated in the commission of terrorist acts. Moreover, it is also OFPRA which supervises refugees and stateless persons settled in the territory of the Principality; at the request of the Monegasque authorities, it provides all the information and assistance which the authorities require.

Subparagraph 3 (g)

The Security Council,

...

3. *Calls upon* all States to:

...

(g) Ensure, in conformity with international law, that refugee status is not abused by the perpetrators, organizers or facilitators of terrorist acts, and that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists;

Further to the reply regarding paragraph 3, subparagraph (f), it should be noted that Act No. 1,222 of 28 December 1999 concerning extradition stipulates that "extradition is denied when the offence is deemed to be a political offence" and specifies that "the offence is also regarded as political when there are reasons to believe that the request for extradition in connection with an offence against ordinary law has been submitted in order to prosecute or punish an individual on grounds of race or ethnic origin, religion, nationality, political opinions, and more generally grounds undermining the dignity of this individual, or the situation of this individual is liable to be exacerbated for one or other of these reasons". On the other hand, an attack against a head of State or a member of his family is not regarded as a political offence.

With regard to violations involving participation in terrorist bombings, article 8 of sovereign ordinance No. 15,088 of 30 October 2001 concerning the implementation of the International Convention for the Suppression of Terrorist Bombings provides that "For the purposes of extradition or judicial cooperation as envisaged in the Convention (for the Suppression of Terrorist Bombings), none of the offences envisaged in articles 2, 4 and 5 are regarded as political offences, related to political offences or inspired by political motives."

United Nations conventions for the suppression of acts of terrorism: situation of the Principality of Monaco as of 15 January 2002

Title of the treaty	*Situation vis-à-vis the treaty*	*Entry into force*	*Issuance of sovereign ordinance making the treaty enforceable*
Convention on Offences and Certain Other Acts Committed on Board Aircraft, done at Tokyo on 14 September 1963 (ICAO)	Instrument of accession signed on 17 May 1983 Deposited on 2 June 1983	31 August 1983	SO No. 7,963 of 24 April 1984 (JO of 4 May 1984)
Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16 December 1970 (ICAO)	Instrument of accession signed on 17 May 1983 Deposited on 3 June 1983	3 July 1983	SO No. 7,962 of 24 April 1984 (JO of 4 May 1984)
Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971 (ICAO)	Instrument of accession signed on 17 May 1983 Deposited on 3 June 1983	3 July 1983	SO No. 7,964 of 24 April 1984 (JO of 4 May 1984)
Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, adopted on 24 February 1988	Instrument of accession signed on 2 December 1993 Deposited on 22 December 1993	21 January 1994	SO No. 11,177 of 10 February 1994 (JO of 18 February 1994)
Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents -- New York, 14 December 1973 (United Nations)	Under consideration	–	–
International Convention against the Taking of Hostages, done at New York on 14 December 1979 (United Nations)	Instrument of accession signed on 2 October 2001 Deposited on 16 October 2001	15 November 2001	SO No. 15,157 of 20 December 2001 (JO of 28 December 2001)
Convention on the Physical Protection of Nuclear Material, done at Vienna on 3 March 1980 (IAEA)	Instrument of accession signed on 25 July 1996 Deposited on 9 August 1996	8 September 1996	SO No. 12,093 of 28 November 1996 (JO of 6 December 1996)
Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988 (IMO)	Instrument of accession signed on 10 January 2002	–	–
Protocol on the Suppression of Unlawful Acts Against the Safety of Platforms Located on the Continental Shelf, done at Rome on 10 March 1988 (IMO)	Instrument of accession signed on 10 January 2002	–	–
Convention on the Marking of Plastic Explosives for the Purpose of Detection, adopted at Montreal on 1 March 1991 (ICAO)	Instrument of accession signed on 17 February 1998 Deposited on 14 May 1998	13 July 1998	SO No. 13,645 of 5 October 1998 (JO of 9 October 1998)

Title of the treaty	*Situation vis-à-vis the treaty*	*Entry into force*	*Issuance of sovereign ordinance making the treaty enforceable*
International Convention for the Suppression of Terrorist Bombings, adopted on 15 December 1997 (United Nations)	Signed on 25 November 1998 Instrument of ratification signed on 22 August 2001 Deposited on 6 September 2001	6 October 2001	SO No. 15,083 of 30 October 2001 (JO of 9 November 2001)
International Convention for the Suppression of the Financing of Terrorism, done on 9 December 1999 at New York (United Nations)	Instrument of ratification signed on 29 October 2001 Signed and ratified on 10 November 2001	Text not yet in force	–

N.B.: SO: Sovereign Ordinance; JO: *Journal de Monaco* (Official Gazette).